LEGISLATIVE PRIORITIES – November 12, 2021

TREASURY SHOULD GRANT LIFO RELIEF DUE TO A COVID-RELATED GLOBAL INTERRUPTION OF VEHICLE PRODUCTION

Government actions to address the pandemic slowed or stopped production at vehicle assembly plants and suppliers across the globe, creating major foreign trade and supply interruptions in the U.S. vehicle industry. With historically low inventories and a semiconductor chip shortage caused by the pandemic, many dealers who use the Last-In, First-Out (LIFO) accounting method now face significant, unexpected tax liability due to LIFO recapture. NADA petitioned the Treasury Department to exercise its authority under Section 473 of the Internal Revenue Code to allow taxpayers to elect to replace their new-vehicle inventories over a three-year period. Since the petition was submitted, vehicle inventory constraints have worsened due to circumstances beyond the dealers’ control, with no relief in sight. In the midst of depleted inventory, dealers are facing massive tax bills that could otherwise be utilized to invest in replenishing inventory, EV infrastructure, and employee training.

Recently, nearly 100 bipartisan House Members and 20 Democratic Senators signed letters to Treasury Secretary Janet Yellen urging the Department to use its authority to grant LIFO relief for dealers because government actions in response to the pandemic triggered a “major foreign trade interruption.” Members of Congress should urge the Treasury Department to grant temporary LIFO relief for businesses facing difficulty replacing inventories due to government and other actions that created a major global interruption of vehicle production.

TAX HIKES WILL HURT SMALL BUSINESS FAMILY DEALERSHIPS AND WORKERS

The tax reconciliation bill currently under consideration by Congress may include punitive tax increases on small businesses and pass-through businesses, including auto and truck dealerships. Previous versions of the tax reconciliation bill significantly limited the Section 199A deduction for pass throughs, increased the top individual rate by 2.6% and expanded the 3.8% net investment income tax (NIIT) to include all pass-through income. If enacted, the overall tax rate on a pass through would increase from 29.6% to as high as a 43.4%, giving large C corporations a significant tax advantage with a new tax rate at 26.5%.

The current 199A deduction is consistent with years of balanced tax treatment between pass-through entities and C corporations. The 199A deduction allows dealerships to retain earnings in the business, encourages increased business investment, and preserves small business jobs. Private companies provide 77% of all jobs and are spread evenly across the country, while public company jobs tend to be concentrated in a few cities and states. Overtaxing small businesses will only encourage further business consolidation and harm jobs. Congress should preserve the Section 199A deduction and not expand taxes such as the NIIT to protect small businesses, their workers, and local communities.

NEW ELECTRIC VEHICLE INCENTIVES MUST WORK IN THE SHOWROOM

The House tax reconciliation bill (H.R. 5376) includes a new electric vehicle (EV) incentive program. NADA supports tax credits to incentivize the consumer purchase of EVs. The legislation would increase the current EV tax credit from $7,500 up to $12,500 and make the credit refundable. The bill also makes the incentive transferable, which would allow the consumer to obtain the credit at the point of sale or “cash on the hood.” Prompt IRS reimbursement to dealers, who will front load the credit, is essential to ensure the full value of the consumer incentive. Additionally, Congress should broaden the incentive to include every franchised brand to achieve widespread EV adoption. Congress must ensure any EV incentive program provides the broadest application to achieve widespread EV consumer adoption with the incentive credited at the point of sale to “work in the showroom.”